

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

VILMA BOUCHARD, EXECUTRIX OF THE
ESTATE OF SAMANTHA A. BOUCHARD,

PLAINTIFF,
V.

04CV1798
ELECTRONICALLY FILED

CSX TRANSPORTATION, INC.,

DEFENDANT.

Order

After careful consideration, the Court will sustain plaintiff's objection [217] to the proposed jury instruction on damages for pre-impact pain and suffering, and will add language regarding pre-impact fright to the final jury charge on damages. See *In Matter of Consolidation Coal Company*, 296 F.Supp. 837 (W.D. Pa. 1968). Additionally, based upon defendant's supplemental trial brief on plaintiff's proposed instruction on wrongful death damages [213], the Court will eliminate any language regarding the loss of society and comfort from the final jury instructions because the law is clear that wrongful death damages do not include the loss of a child's consortium. *McCaskill v. Philadelphia Housing Authority.*, 615 A.2d 382, 384 (Pa. Super. 1992). The final jury instructions on damages will be filed forthwith.

SO ORDERED this 14th day of September, 2007.

s/Arthur J. Schwab
Arthur J. Schwab
United States District Judge